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# HOUSE BILL No. 1231

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-28-3-5.

**Synopsis:** Mechanic's liens. Provides that a mechanic's lien has priority over a mortgage or a lien for the development, construction, alteration, or repair of certain property.

**Effective:** July 1, 2008.

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January 14, 2008, read first time and referred to Committee on Labor and Employment.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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# HOUSE BILL No. 1231



A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-28-3-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) As used in this  
3 section, "lender" refers to:  
4 (1) an individual;  
5 (2) a supervised financial organization (as defined in  
6 IC 24-4.5-1-301);  
7 (3) an insurance company or a pension fund; or  
8 (4) any other entity that has the authority to make loans.  
9 (b) The recorder shall record the statement and notice of intention  
10 to hold a lien when presented under section 3 of this chapter in the  
11 miscellaneous record book. The recorder shall charge a fee for  
12 recording the statement and notice in accordance with IC 36-2-7-10.  
13 When the statement and notice of intention to hold a lien is recorded,  
14 the lien is created. The recorded lien relates back to the date the  
15 mechanic or other person began to perform the labor or furnish the  
16 materials or machinery. Except as provided in subsections (c) and (d),  
17 a lien created under this chapter has priority over a lien created after it.



- 1 (c) The lien of a mechanic or materialman does not have priority
- 2 over the lien of another mechanic or materialman.
- 3 (d) ~~The mortgage of a lender has priority over~~ All liens created
- 4 under this chapter **have priority over the mortgage of a lender or**
- 5 ~~that are recorded after the date the mortgage was recorded; to the extent~~
- 6 ~~of the funds actually owed to the lender for the specific project to~~
- 7 ~~which the lien rights relate. This subsection does not apply to a lien that~~
- 8 ~~relates to a construction contract for the development, construction,~~
- 9 ~~alteration, or repair of the following:~~
- 10 (1) A Class 2 structure (as defined in IC 22-12-1-5).
- 11 (2) An improvement on the same real estate auxiliary to a Class
- 12 2 structure (as defined in IC 22-12-1-5).
- 13 (3) Property that is:
- 14 (A) owned, operated, managed, or controlled by:
- 15 (i) a public utility (as defined in IC 8-1-2-1);
- 16 (ii) a municipally owned utility (as defined in IC 8-1-2-1);
- 17 (iii) a joint agency (as defined in IC 8-1-2.2-2);
- 18 (iv) a rural electric membership corporation formed under
- 19 IC 8-1-13-4;
- 20 (v) a rural telephone cooperative corporation formed under
- 21 IC 8-1-17; or
- 22 (vi) a not-for-profit utility (as defined in IC 8-1-2-125);
- 23 regulated under IC 8; and
- 24 (B) intended to be used and useful for the production,
- 25 transmission, delivery, or furnishing of heat, light, water,
- 26 telecommunications services, or power to the public.

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